

### **REMARKS**

This Amendment is being filed in response to the Office Action mailed October 13, 2004. Claims 1-25 were rejected. Applicant has herein amended Claims 1, 12 and 21, and canceled Claims 3-5 and 14-16. Claims 1, 2, 6-13 and 17-25 are still pending in the application.

### **CLAIM REJECTIONS – CLAIMS 1, 3, 6, 7, 8, 11, 21 and 25 - § 102(b)**

Claims 1, 3, 6, 7, 8, 11, 21 and 25 were rejected under 35 U.S.C. § 102(b) as being anticipated by Dagenais (4,908,976).

Applicant has herein amended independent Claims 1 and 21, and canceled Claim 3. Applicant respectfully submits that independent Claims 1 and 21, and the claims dependant thereon, are allowable over Dagenais. Applicant claims a rodent trap comprising a tube having a first and second end, and adhesive material disposed solely along a central radial portion of the tube, a first end cap configured to close the first end and forming a watertight seal and a second end cap configured to close the second end and forming a watertight seal, a first axial flat portion and a second axial flat portion, wherein the first and second axial flat portions are perpendicular to each other.

With respect to independent Claim 1, Dagenais fails to disclose an adhesive material solely disposed along a central radial portion of the tube within the inner tube surface. Dagenais discloses *the entire interior surface of the tube being adhesive* so that when a rat enters the tube it is immediately caught. Having the adhesive disposed solely on the central portion allows the rodent to

completely enter the tube before getting stuck. Accordingly, the tube is long enough to encapsulate a rodent when the rodent engages the sticky central portion and thus gets stuck in the middle of the tube and as opposed to partially protruding out of one end. The physical contact with the rodent is thus minimized because the rodent is fully enclosed within the tube. Dagenais disposes the adhesive material throughout the tube, thereby causing the rodent to become immediately stuck on the edges of the tube. Not only does the user see the rodent, the user is forced to maneuver the rodent further into the tube in order to place the cap on the tube. Furthermore by capturing the rodent in the middle of the tube, the rodent is prevented from grabbing an edge of the tube in an attempt to escape.

**Dagenais also fails to disclose a first axial flat portion and a perpendicular second axial flat portion.** Dagenais is a circular tube that when placed on a surface would tend to roll around on the surface. Furthermore, when put against a corner of a wall, the space in between the tube and the wall is substantial enough for a mouse to run through and never be affected by the rodent trap. Even if the space between the round tube and the wall were not large enough for a rodent to run through, round tubes present a barrier at the corner where the floor meets the wall. Rodents have sensitive whiskers will stop to investigate, making their capture less likely.

Applicant's claimed invention however includes a first and second axial flat portion that are perpendicular to each other. The trap can be utilized more efficiently at the corner where a wall and the floor meet, which is where rodents

tend to traverse the most. The first axial flat portion lays parallel with the floor surface and the second axial flat portion lays vertically parallel to the wall, so as to assure that any rodents traversing along the edge of the room will be caught in the trap. The perpendicular flat axial portions enable the device to be positioned strategically such that a scurrying rodent will continue to move without hesitation into the tube due to its forward momentum. The first and second axial flat portions also provide stability to the rodent trap so that it does not roll away from the desired location.

Furthermore, Dagenais fails to disclose that its end caps form a watertight seal as claimed by Applicant. Therefore, Claim 1 and its dependants are not anticipated by Dagenais.

**In regards to independent Claim 21, Dagenais fails to disclose placing a first axial flat portion of a tube on a first flat surface and then placing a second perpendicular axial flat portion of the tube substantially parallel against a vertical wall.** This is substantially due to the fact that Dagenais is a round tube and does not have any axial flat portions. Applicant's invention is designed to be disposed and stabilized along corners of the wall where rodents frequent most. Dagenais however, requires an additional feature of a small bar to stabilize the tube. Therefore, Claim 21, and its dependants are not anticipated by Dagenais.

**CLAIM REJECTIONS - § 103(a)**

Claims 2, 4 and 5 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Dagenais in view of Nishimura (3,913,259).

In regards to Claim 2, Nishimura briefly discloses using a disinfectant somewhere in the tube. It does not however disclose a disinfectant being disposed on either the first or second cap. By disposing the disinfectant on an inner surface of the caps, the disinfectant is kept from being dissipated or otherwise affected by a rodent trapped in the tube. Furthermore, Claim 2 relies upon now allowable Claim 1 and is allowable over the cited combination since the addition of Nishimura to Dagenais nonetheless fails to show the claimed features.

Claims 4 and 5 have herein been canceled.

Claims 9, 10, 12, 14 and 17-20 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Dagenais in view of Cairns (6,510,647). Claims 9 and 10 rely upon now allowable Claim 1 and are allowable over the cited combination since the addition of Cairns to Dagenais nonetheless fails to show the claimed features.

Claim 12 has been amended and the addition of Cairns to Dagenais fails to show the claimed features. Applicant claims that the adhesive material is disposed solely along a central portion of the tube. Both Cairns and Dagenais disclose fully disposing the tube with an adhesive. Applicant further claims a first axial flat portion and a second axial flat portion, wherein the first and second axial flat portions are perpendicular to each other. This feature allows the tube to be

placed against the corner of a wall where rodents frequent most. This feature also allows the rodent trap to be stabilized in a desirable place without the use of any additional structural aids. **Both Cairns and Dagenais fail to disclose even having first and second flat axial portions.**

Claims 14 and 17-20 are dependant upon now allowable Claim 12.

Claims 13, 15 and 16 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Dagenais in view of Cairns (6,510,647) and further in view of Nishimura (3,913,259). Claims 13, 15 and 16 are dependant upon now allowable Claim 12.

Claims 22 and 23 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Dagenais in view of Hover, Sr. et al. Claims 13, 15 and 16 are dependant upon now allowable Claim 12.

Claim 24 was rejected under 35 U.S.C. § 103(a) as being unpatentable over Dagenais in view of Hover and further in view of Nishimura. As discussed above, Nishimura fails to disclose a disinfectant located on the inner surface of a cap. Furthermore, just because Hover discloses using water to drown a rodent and Nishimura discloses disposing a disinfectant somewhere in the tube, there is no correlation such that installing a water-activated disinfectant would have been obvious to one in the art at the time the inventions were made. It is not even clear that a water-activated disinfectant existed in 1993 to install into Hover. Furthermore, Claim 24 is dependant on now allowable claim 21.

**SUMMARY**

Based on the above amendments and accompanying remarks, Applicant respectfully submits that all pending claims are in condition for allowance and respectfully requests a Notice of Allowance. Applicant encourages the Examiner to telephone the undersigned attorney if it appears that a telephone conference would facilitate allowance of the application.

I hereby certify that this correspondence is being deposited with the United States Postal Service as first class mail in an envelope addressed to:  
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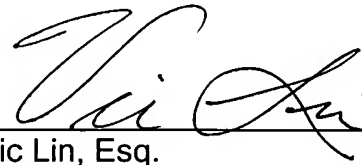
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Signature

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